IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 24136 of 2004

Between:

B.Prem Kumar, Conductor (E-108381)

APSRTC, Wanaparthy Bus Depot,

Mahabubnagar district

..... PETITIONER

AND

1. The Depot Manager, APSRTC,

Wanaparthy Bus Depot, Mahabubnagar District

2. The Dy.Chief Traffic Manager (Divisional Manager)

APSRTC, Nagarkurnool Division, Mahabubnagar District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of mandamus declaring that the action of the respondents in imposing the punishment of with-holding of annual increment for a period of one year which shall have effect on petitioner's future increments as bad, arbitrary, illegal, unjust and unreasonable and violative of principles of natural justice and contrary to the judgments of this Hon'ble court and also the apex court by setting aside the final order No.02/62(55)/94-WP dt 27-9-1994 of R1 herein and consequential order dt 30-9-1996 of R2 herein and consequently direct the respondent to add the deferred increment and pass such other order or orders.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the stage of admission made the following:

ORDER:

Declaring the action of the 1st respondent in imposing major penalty vide proceedings No.02/62(55)/94-WNP dated 27.09.1994, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for an irregularity in collecting fare and issuing tickets to the passengers. He submitted his explanation. The 1st respondent passed an order on 27.09.1994 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the 2nd respondent and the same was rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of one year with cumulative effect, imposed by the 1st respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual

increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this Order to which he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

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23.12.2004

dsr

To:

1. The Depot Manager, APSRTC,

Wanaparthy Bus Depot, Mahabubnagar District

2. The Dy.Chief Traffic Manager (Divisional Manager)

APSRTC, Nagarkurnool Division, Mahabubnagar District

3. Two CD copies.